IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7129 of 1988
For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MOHARSING P YADAV
Versus
STATE OF GUJARAT

Appearance:
MS DR KACHHAVAH for Petitioner
Mr M.A. Bukhari, AGP for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE C.K.THAKKAR

Date of decision: 14/03/2000

ORAL JUDGEMENT

This petition is filed against an order passed by the Office Superintendent (O) dated 27th April 1988 at Annexure `D'. In the said order, it was stated that in pursuance of the application made by the petitioner for House Rent Allowance (`HRA'), the petitioner cannot be granted the said allowance in view of the fact that from the documents produced by the petitioner, it was not established that he had become owner of the house in which he was staying. Hence, as per Government Resolution dated 16th September 1982, he would not be entitled to such allowance.

Rule was already issued and today, the matter is taken up for final hearing.

Learned advocate for the petitioner submitted that the order was passed without affording opportunity of hearing to the petitioner. My attention was also invited to a subsequent resolution dated 15th October, 1987 in which previous resolutions were considered. It was also contended that the petitioner had become owner of the property and that in accordance with the policy of the Government, he is entitled to HRA.

In the facts and circumstances, in my opinion, it would be in the interest of justice if the petition is allowed by setting aside the order passed by the authority and by directing it to pass an appropriate order in accordance with law , after affording an opportunity of hearing to the petitioner. The petitioner is at liberty to produce necessary documents in support of his claim regarding ownership of house. It is also open to the respondent to pass appropriate order and disposal of this SCA or quashing and setting aside of the order dated 27th April 1988 will not come in the way of the respondent authority in passing appropriate order. Petition is accordingly allowed . Rule made absolute to the aforesaid extent. No order as to costs.

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parekh